IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 391 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

1 to 5 NO

DR JJ PANDIT,SUPDT

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Revision Application No. 391 of 1994

PARTY-IN-PERSON for Petitioner No. 1

MS PAURNAMI B SHETH APP for Respondent No. 1

RULE SERVED for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE D.H.WAGHELA

Date of decision: 24/12/2003

ORAL JUDGEMENT

1. This application, pending since the year 1994, was taken up for final hearing even as the petitioner

appearing as party-in-person requested to grant some time after requesting the Court to fix the listing and hearing of this revision application along with the other proceedings which are pending before a Division Bench of this Court and in which same or similar issues related to the same litigations were raised according to him.

2. It is apparent from the record that the petitioner has adopted the course of appearing as party-in-person and creating complications by multiplicity of proceedings and filing of unnecessary and irrelevant documents, number of argumentative representations and illegible copies of judgments. As recorded in the oral order dated 19.11.2003 in this petition, the original Special Criminal Case No.51 of 1992 pending against the petitioner in the Court of the learned Second Joint District Judge, Ahmedabad (Rural) is pending and not proceeded with under the impression and statement of the petitioner that an indefinite stay was granted by this Court by way of interim relief. No order of this Court made during the period from January 1995 to May 2003 could be seen on the file of this case. Therefore, office was directed to call for the Record & Proceedings of the aforesaid criminal case pending against the petitioner. The report of the office, after verification of the record, says that the last order of interim stay was limited upto 20.2.1995. On the other hand, the party-in-person submitted an order dated 9.12.2002 in his Special Criminal Application No.1161 of 2003 wherein it was stated by him that on the very same subject a petition challenging vires of some legal provision is presented and listed before a Division Bench. Accordingly, that special criminal application was ordered to be tagged with Special Civil Application No.16931 of 2003. In the said Special Civil Application No.16931 of 2003, the Division Bench of this Court (Coram: Bhawani Singh, CJ.& J.N.Bhatt,J.) by order dated 8.12.2003 has made an order reading as under:

"Criminal case is pending against the petitioner before the Special Sessions Judge, Ahmedabad (Rural). Petitioner has filed petition under section 482 of the Criminal Procedure Code for quashing of the same in this Court, which is pending before the single Judge. Now, through this petition under Article 226 of the Constitution of India, he challenges the vires of the provisions of the Scheduled Castes and the Scheduled Tribes Prevention of Atrocities Act, 1989. Whether this petition is maintainable and whether these provisions are unconstitutional,

they are required to be advanced by a lawyer, who can assist in examining the questions. S/Shri K.B.Anandjiwala and Shalin N. Mehta, advocates are requested to make submissions and assist the Court in this case on December 16, 2003. The Registry to supply the photocopy of the petition to S/Shri K.B.Anandjiwala and Shalin N.Mehta."

(emphasis supplied)

And, the Division Bench appears to be seized of the aforesaid special civil application in which notice returnable on 27.1.2004 is issued.

3. The order impugned in this revision application appears to have been made below the application of the petitioner to discharge him of the offences punishable under section 506 (2) of the Indian Penal Code read with section 3 (10) of the Atrocities Act about which a complaint is filed against the petitioner vide C.R. No.25 of 1992. A last-ditch attempt at converting this revision application into an application under section 482 of the Cr.P.C. and thereby taking it to another Bench was also made by the petitioner by filing an application.

4. It is apparent from the record that the petitioner has been abusing the process of the Court since the order dated 2.9.1994, which is under challenge and in respect of which hardly any legal submission is made. The few submissions which the party-in-person insisted on making on the basis of his own personal logic and absolutely irrelevant propositions of law laid down in the judgments on which he relied were to the effect that, in the facts and circumstances, the petitioner could not have been charged with the offences alleged as above against him and the complaint against him was required to be quashed. He submitted that, although this is admittedly a criminal revision application, the provisions of section 482 of the Cr.P.C. could be invoked and the Court must appreciate the facts and circumstances emerging from the complaint. He also submitted an order dated 18.12.1999 of the learned Additional Sessions Judge in Special Criminal Case No.51 of 1992 wherein a second application seeking discharge was dismissed. Therefore, it is apparent that, even during the pendency of various proceedings in this Court, the petitioner has been making repeated applications on the same line in the trial Court and wasting precious public time of that Court also.

5. The Record & Proceedings of the trial Court

having been called for, the aforesaid impression of the petitioner about consistently abusing the process of the Court and making worse use of his appearance as party-in-person is further buttressed. In any case, two other proceedings involving larger issues being already pending before this Court at the instance of the petitioner himself, he is in a position to claim appropriate relief in those proceedings and, therefore, it is all the more reason that this proceeding should not survive.

6. In the above facts and circumstances and no ground having been made out to interfere with the impugned order and there having been no failure of justice, this application is rejected.

7. In view of the fact that the petitioner, a highly qualified doctor in government employment, has consistently abused the process of the Court and made his appearance as party-in-person a privilege for seeking repeated adjournments, special hearing and making incoherent and irrelevant submissions, he is required to be saddled with appropriate costs. Accordingly, the application is rejected with costs of Rs.7,500/- to be paid by the petitioner to the State through the Officer In-charge of Dhandhuka Police Station, Ahmedabad (Rural) within 15 days of this order. A copy of this order shall be placed in the other proceedings pending before this Court, i.e. Special Criminal Application No.1161 of 2003 and Special Civil Application No.16931 of 2003. The Record & Proceedings shall be returned forthwith and the trial Court should proceed with the case on, as far as practicable, day-to-day basis in accordance with law

in view of the fact that already about eight years have elapsed in the process of proliferation of litigation as summarised above. Rule is discharged. Prayer of staying this order for a period of 15 days is rejected.

Sd/-

(D.H.Waghela,J.)

(KMG Thilake)